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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF WASHINGTON
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9 UNITED STATES OF AMERICA,
10 Plaintiff,
11 v.
12 EMMETT WESSON,
13 Defendant.
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NO. CR-01-6027-RHW

**ORDER DENYING
DEFENDANT'S MOTION FOR
REDUCTION OF SENTENCE
UNDER 18 U.S.C. § 3582(c)(2)**

14 Before the Court is Defendant's Motion for Modification of Sentence
15 Pursuant to Title 18 U.S.C. § 3582(c)(2), and Motion for Appointment of Counsel
16 (Ct. Rec. 114). The motion was heard without oral argument.

17 On December 17, 2007, Defendant filed a Motion for Reduction of Sentence
18 (Ct. Rec. 109). The motion was based on 18 U.S.C. § 3582(c)(2) and the disparity
19 of the sentencing ranges between crack and powder cocaine. The Court denied the
20 motion because Defendant's sentence was not based on the quantity of crack
21 cocaine that he distributed; rather he was sentenced based on Chapter 4, Career
22 Criminal provisions.

23 On November 5, 2009, Defendant filed a second motion to reduce his
24 sentence based on the disparity of sentencing ranges between crack and powder
25 cocaine. As set forth in the prior order, there is no basis to modify Defendant's
26 sentence. *See United States v. Wesson*, 583 F.3d 728, 731 (9th Cir. 2009) (holding
27 that a career offender sentenced pursuant to § 4B1.1 is not eligible for a sentence
28 reduction under Amendment 706).

**ORDER DENYING DEFENDANT'S MOTION FOR REDUCTION OF
SENTENCE UNDER 18 U.S.C. § 3582(c)(2) ~ 1**

1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. Defendant's Motion for Modification of Sentence Pursuant to Title 18
3 U.S.C. § 3582(c)(2), and Motion for Appointment of Counsel (Ct. Rec. 114) is
4 **DENIED.**

5 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
6 Order and provide a copies to Defendant and counsel.

7 **DATED** this 22nd day of December, 2009.

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10 *s/Robert H. Whaley*

11 ROBERT H. WHALEY
12 United States District Judge

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**ORDER DENYING DEFENDANT'S MOTION FOR REDUCTION OF
SENTENCE UNDER 18 U.S.C. § 3582(c)(2) ~ 2**